



Senate

General Assembly

January Session, 2009

File No. 719

Senate Bill No. 1099

Senate, April 20, 2009

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING CERTAIN APPEAL PROCEDURES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-301b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 Any party aggrieved by the decision of the Compensation Review
4 Board upon any question or questions of law arising in the
5 proceedings may appeal the decision of the Compensation Review
6 Board to the Appellate Court, whether or not the decision is a final
7 decision within the meaning of section 4-183 or a final judgment
8 within the meaning of section 52-263.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	31-301b
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JUD Joint Favorable

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes it easier to appeal (to the state Appellate Court) a decision by the Workers' Compensation Commission (WCC). The Office of the Attorney General, which would represent the WCC in such appeals, can accommodate the provisions of the bill with existing resources. The Judicial Department would not require additional resources to hear appeals under the bill.

The Out Years

There is no fiscal impact in the out years.

OLR Bill Analysis**SB 1099*****AN ACT CONCERNING CERTAIN APPEAL PROCEDURES.*****SUMMARY:**

By law, a party can appeal a decision of a workers' compensation commissioner to the Compensation Review Board. A party can then appeal the board's decision on a question of law to the Appellate Court. Under case law, the Appellate Court will not hear the appeal unless it is from a final judgment of the board.

This bill allows a party to appeal the board's decision even if it is not considered a final decision under the provisions on appealing administrative decisions under the Uniform Administrative Procedures Act or appeals from the Superior Court. Both of these provisions require appeals from a final decision or judgment unless a law provides otherwise.

EFFECTIVE DATE: Upon passage

BACKGROUND***Related Cases***

Case law requires a final judgment from the Compensation Review Board before allowing an appeal to the Appellate Court. In *Cleveland v. U.S. Printing Ink, Inc.*, 218 Conn. 181 (1991), the court stated that under the practice and procedure of the Appellate Court, a party can appeal a final judgment of a court or judge. For a decision to be appealable from the board, it must have the same elements of finality as a final judgment rendered by a trial court.

In a recent case, the state Supreme Court again upheld its previous decisions requiring a final judgment before allowing an appeal to the Appellate Court. In *Hummel v. Marten Transport, Ltd.*, 282 Conn. 477

(2007), the workers' compensation commissioner ruled that the plaintiff was entitled to survivor's benefits but did not determine the amount of benefits. The defendant appealed the decision to the Compensation Review Board, which affirmed the commissioner's finding. The defendant then appealed to the Appellate Court. Because the commissioner was still hearing matters related to benefits, the Appellate Court dismissed the appeal because the case was not based on a final judgment. The Supreme Court upheld that decision based on its previous decisions.

When the board returns a case to a commissioner for further proceedings in connection with a challenged award, whether the decision is a final judgment depends on whether the further proceedings (1) are ministerial or (2) require independent judgment or discretion and taking additional evidence (*Hummel*).

Related Court Rules

The Judicial Branch's Rules provide that the practice and procedures for appeals of a Compensation Review Board decision to the Appellate Court are the same as for other appeals (P.B. § 76-1). The Rules that generally apply to appeals allow a party to appeal to the Appellate Court when there is a final judgment, unless the law provides otherwise (P.B. § 61-1).

Related Statute

By law, a party aggrieved by a decision of the Superior Court on a question of law arising at trial can appeal from the court's final judgment (CGS § 52-263).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (03/31/2009)